



PROPOSED RULE MAKING

CR-102 (June 2004)

(Implements RCW 34.05.320)

Do **NOT** use for expedited rule making

Agency: Department of Labor & Industries

- ☒ **Preproposal Statement of Inquiry was filed as WSR 04-10-044 ; or**
☐ **Expedited Rule Making--Proposed notice was filed as WSR _____; or**
☐ **Proposal is exempt under RCW 34.05.310(4).**

- ☒ **Original Notice**
☐ **Supplemental Notice to WSR _____**
☐ **Continuance of WSR _____**

Title of rule and other identifying information: (Describe Subject) Workers' Compensation employer fraud and abuse, chapter 296-17 WAC The 2004 Legislature enacted Chapter 243, Laws of 2004 (ESHB 3188) to address an employer's liability to the Department of Labor and Industries for premiums, overpayments, and penalties.

Hearing location(s): See attachment

Date: **Time:**

Submit written comments to:

Name: Department of Labor & Industries

Address: Attn: Tammy Turner

Classification Services

P O Box 44148 , Olympia, WA 98504-4148

e-mail TURE235@lni.wa.gov

fax (360)902-4729 by August 17, 2004 5:00 pm

Assistance for persons with disabilities: Contact

Office of Information and Assistance by August 6, 2004

TTY (360) 902-5797

Date of intended adoption: September 28, 2004
 (Note: This is **NOT** the **effective** date)

Purpose of the proposal and its anticipated effects, including any changes in existing rules: The proposed rules will assist in the implementation of Chapter 243, Laws of 2004 (ESHB 3188) by defining the terms successorship and "in good standing and provide a clearer explanation of prime contractor responsibility. Also at the request of our customers, the department proposes to add four new risk classification sub codes in the construction industry to track firms that do not have employees but want the L&I "in good standing" certification.

New Section WAC 296-17-310301

New Section WAC 296-17-310302

New Section WAC 296-17-310303

New Section WAC 296-17-310042

New Section WAC 296-17-310043

New Section WAC 296-17-310044

New Section WAC 296-17-310045

New Section WAC 296-17-310046

New Section WAC 296-17-310047

Amend Section WAC 296-17-310041

Amend Section WAC 296-17-31013

Amend Section WAC 296-17-52102

Amend Section WAC 296-17- 517

Amend Section WAC 296-17-52002

Amend Section WAC 296-17-52150

Defines "a major part" with regard to successorship

Addresses multiple successorship

Defines intangible property

Explains prime contractor liability

Provides criteria prime contractor protection

Defines what the law means by "in Good Standing"

Tells how to know when an account is in "Good Standing"

Establishes time line for checking accounts

Prime contractor liability as a result of

Re-numbering as we are adding a "310042"

Prime contractors and Construction contractors

Add sub code "99" to classification 0510

Add sub code "99" to classification 0502

Add sub code "99" to classification 0507

Add sub code "99" to classification 0550

Reasons supporting proposal:

This proposal will strengthen the department's ability to pursue premiums due. Defining successorship and further explaining prime contractor liability helps the customer understand what is expected and enables them to be compliant.

Statutory authority for adoption:

Chapter 243, Laws of 2004 (ESHB 3188),

RCW 51.04.020 (General Authority), RCW 51.16.035

(Classification Plan)

Statute being implemented:

Chapter 243, Laws of 2004 (ESHB 3188),

RCW 51.16.035, RCW 51.12.070

RCW 51.08.177 and RCW 51.04.020

Is rule necessary because of a:

Federal Law?

☐ Yes ☒ No

Federal Court Decision?

☐ Yes ☒ No

State Court Decision?

☐ Yes ☒ No

If yes, CITATION:

CODE REVISER USE ONLY

WSR#04-14-081

DATE

July 6, 2004

NAME (type or print)

Paul Trause

SIGNATURE

TITLE

Director

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:

N/A

Name of proponent: (person or organization)

Department of Labor and Industries

☐ Private

☐ Public

☒ Governmental

Name of agency personnel responsible for:

Name	Office Location	Phone
Drafting..... Tammy Turner	Tumwater, WA	(360) 902-4777
Implementation..... Kathy Kimbel	Tumwater, WA	(360) 902-4739
Enforcement..... Robert Malooly	Tumwater, WA	(360) 902-4209

Has a small business economic impact statement been prepared under chapter 19.85 RCW?

☐ Yes. Attach copy of small business economic impact statement.

A copy of the statement may be obtained by contacting:

Name:

Address:

phone () _____

fax () _____

e-mail _____

☒ No. Explain why no statement was prepared.

The Regulatory Fairness Act requires that, before adopting significant legislative rules, a Small Business Impact Statement (SBEIS) be completed to determine whether there is a disproportionate impact on small business. The proposed changes are intended only to make possible the administration of the statutes they are based upon, and do not carry any penalty not specifically dictated by those statutes. Per RCW 34.05.310(4)(e), the SBEIS requirement does not apply to "rules the content of which is explicitly and specifically dictated by statute."

Is a cost-benefit analysis required under RCW 34.05.328?

☐ Yes A preliminary cost-benefit analysis may be obtained by contacting:

Name:

Address:

phone () _____

fax () _____

e-mail _____

☒ No: Please explain: The Administrative Procedures Act requires that, before adopting significant legislative rules, a Cost

Benefit Analysis (CBA) be completed to determine whether the probable benefits of a rule outweigh its probable costs. The proposed changes are intended only to make possible the administration of the statutes they are based upon, and do not carry any penalty not specifically dictated by those statutes. Per RCW 34.05.328(5)(b)(v), the CBA requirement does not apply to "rules the content of which is explicitly and specifically dictated by statute".

Fraud and Abuse Rule hearings

August 10, 2004

10 to 11:30 a.m.

Ramada Inn
Inland Empire Room
8909 Airport Road
Spokane WA 99219
509-838-5211

August 11, 2004

10 to 11:30 a.m.

Red Lion Yakima Gateway
Plum Room
9 N 9th St
Yakima WA 98901 - 2522
509-452-6511

August 16, 2004

10 to 11:30 a.m.

Department of Labor and Industries
Tukwila Office Training Room
12806 Gateway Dr
Tukwila WA 98168-3311
206-835-1000

August 17, 2004

10 to 11:30 a.m.

Red Lion Hotel at the Quay
West River Rooms 1& 2
100 Columbia
Vancouver WA 98660
360-750-4940

Court Reporter: Milton Vance